

PROPOSALS  
Humbly offer'd to the  
PARLIAMENT,  
For Remedying the  
Great Charge and Delay  
OF  
SUITS  
AT  
LAW  
And in Equity.

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*By an ATTORNEY.*

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Printed by the City of London, in the Strand, 1797.

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## *Proposals humbly offer'd to the Parliament, &c.*

**T**HERE has of late been much Talk about Mending the Law, and even an Act of Parliament made for that Purpose, but to my Apprehension, the Grievance is mistaken; for certainly its not the Law wants mending, (that's already the best in the World) but the Practice of it; which is now grown to that wretched Pass, that in many Cases it makes a total Failure of Justice, as if a Debt be only about 3*l.* and recoverable at Law, or 30*l.* or 40*l.* and recoverable only in Equity, you shall lose more in taxing your Costs than your Debt comes to, and so are only banter'd with a Recovery, and had better have releas'd your Debt at first, than have vext yourself with Suing for it. Moreover, the great Charge out of Pocket, and Delay of Justice, is not only injurious to all Sorts of Suitors, but perfectly deprives the Poorer Sort of Justice; who (tho' they were sure of having it all again) cannot be so much in Disburse as a Suit requires, or cannot stay so long for their Money as the tedious Rules of the Courts oblige them to, before they recover it, and so are forc'd either for these Reasons to lose all, or perhaps to compound and lose great Part of a just Debt: And yet this is not the Fault of the Law, but the Practice of it: Its those tedious chargeable Roads to Justice want mending; and when that's done, and not till then, we shall find Justice advanc'd to some Purpose.

I have not heard of any Body that has spoke on this Subject, and therefore this last Vacation I bestow'd a few rainy Days in thinking of it, and do humbly conceive, That if some such Regulation was made, as is herein after propos'd, we should find, that One Shilling and One Term would then go as far in obtaining Justice, as Four Shillings and Four Terms will now.

I own I am an Attorney, nevertheless I sincerely declare, I write this for no other End or Reason, than pure Affection to my native Country, and



the Laws of it, and out of a Desire, that every one may have Justice cheap and speedily administred to them, which would be a great Honour to the Nation, and which no one would be better pleas'd with than my self; for I do in my Soul abhor the cruel Usage, Hardships, and Miseries, I daily see poor Suitors suffer, by the chargeable, dilatory, senseless, and ridiculous Offices, Rules, and Forms, of the Supreme Courts of Justice.

In order then to redress the exorbitant Charge and Delay of legal Proceedings, (which certainly is a great Grievance) I must begin with the Judges.

A Judge is an Officer of great Care, Pains, and Anxiety, and one of the most considerable Officers in the Kingdom, on whose Learning and Integrity the Lives, Liberties, Properties, and all that's dear to the Subject, does in a very high Degree depend; he is *Lex loquens*, the Life of the Law and the Legillative Power, interpreting and executing the Laws, which of themselves are but dead Letters, and so great and powerful an Officer certainly deserves a noble Salary for doing his Duty. Now the *Primum Mobile* of the Mischiefs and Inconveniencies I would humbly recommend to be redrest, is the Smallness of the Judges Salaries, their taking divers Fees of the Subject for doing their Duty, and their selling the several Offices under them at very high Prices. It would certainly be for the Honour of the Government, and Justice it self, that Judges should in all Cases administer Justice without taking any manner of Fee or Reward of the Suitor; the very taking whereof, looks like selling Justice; and it would render Justice very cheap, and consequently more speedy, if many Offices in the several Courts were suppress'd, as altogether insignificant, and if those left standing were to be dispos'd of *gratis*, and their Fees reduc'd considerably lower.

These Offices are now Perquisites belonging to the Judges respectively, and I humbly think the Benefit of selling them, and the Fees the Judges now take, and their Sallary from the Government, do not altogether amount to what a Judge (that great Arbitrator of our Lives and Fortunes) reasonably deserves: Therefore I would humbly propose, That every puisney Judge should have a certain Sallary of at least 2500 *l. per Annum*, and so in Proportion for the Chief Judges of each Court, and have no other Fee or Perquisite whatever. That the Judges should put in all Officers under them *gratis*, and that Judge an Officer should, in open Court, take an Oath, no Reward was given or taken on that Account: This Reformation would raise the Esteem of the Judges, and would make them indifferent, impar-tial, and quick of Dispatch, they would certainly then be free from all for-did Inducements; because, go the Matter which Way it would, were it  
done





done or not done, it would still be the same Benefit to them. Whereas all Practicers know, That there have been Judges that have often shew'd too much Regard to their contingent Fees, and plainly discover'd a Byass, when a Fee was due to them or their Clerks, if a Matter went one Way, and none if it went another.

And besides other Advantages, such noble Salleries would not only be a Means to encourage at least the younger Sons of the best Families in *England*, to apply to the Study of the Law, in Hopes of such Preferments, but they would always tempt the greatest Men at the Bar to accept even of a puisney Judge's Place, which has been refus'd by many eminent Practicers, because their Practice was worth more to them; and this also has been the Cause, why we have always (except at this Time) had some mean puisney Judges upon the Bench. And what a great Injury it is to the Public, to prefer a Man of mean Parts to a Place of Judicature, I leave any one to judge who has ever observ'd the Actions of those Men, especially upon their Circuits; its there they do the most Mischief, where they are left to themselves; in *Westminster-hall* they neither do much Good nor much Harm, because they are kept steady by their learned Companions. To judge and to determine are two different Things; a mean Judge may hear and judge Causes, but he rarely determines them: His Opinion (tho' according to Law) is not of Authority enough to subdue the Partiality the Suitor has to his own Cause, who will rather think such a Judge in the Wrong than himself; will rather suspect such a Judge of Error and Mistake, than believe his own Cause bad; and therefore he seldom acquiesces under his Judgment, but by a new Trial, or some other Way, brings the Matter about again, and so in Effect makes two Causes of one: But such a Judge as the Chief of the Queen's Bench, (who comes fully up to *Jethro's* Character of a Judge, and who has the Courage of *Gascoigne*, and the Judgment, Learning, and Integrity of *Hales*) does not only judge, but determine: He (like a Fine) *Finem Litibus imponit*; his Opinion carries Reverence and Conviction along with it, it conquers and baffles the Suitor's vain Opinion of his own Cause, and often brings him even to acknowledge himself in the Wrong; or if not so, yet it has this good Effect upon him, it makes him submit and be quiet, as thinking it in vain to struggle against the Opinion of so great a Man: Therefore if *Expedit Reipublica ut sit Finis Litium*, be a good Maxim, it is consequently expedient such Men be made Judges as are capable of ending them; which may reasonably be expected when their Salaries are advanced, but not before. I forgot to mention New-years-gifts, a pernicious Custom that deserves suppressing; for those Gifts, if from a Council,



Council, are to purchase unjust Favours and Preference, and the Liberty of being impertinent for a Year, without Check from the Bench; and if they are from an Officer, they are little better than endeavouring to bribe the Judge to connive at his Extortions and Misdemeanours for the Year ensuing. As to the Lord-Keeper, or Chancellor, and Master of the Rolls, it might fall too heavy upon the Government to take away all their Fees in general, and recompence them with a Salary: Therefore I humbly propose, That they should have ample Salaries, in Satisfaction of the Offices they use to sell, and of all Fees taken by them, and their Secretaries, and other Officers, for any Proceedings or Matters whatsoever, in any Suit by Bill and *Subpoena* between Party and Party; as to their other Fees I have nothing to say against 'em.

The next thing that will render Justice cheap and speedy, will be the suppressing many insignificant foolish Offices, and reducing the Fees of the rest: In order to this, I humbly propose, That all the Officers that have bought their Places be redeem'd by the Government at the Prices they gave for 'em; those that came in *gratis* may be turn'd out *gratis*, and no Injury done them. But lest the Reader should be impatient to hear me out, because my Proposals hitherto seem unseasonable, intending to bring a Charge upon the Government in Time of War, I promise by-and-by to propose a Way to defray all the Charge of advancing the Judges Sallaries, and buying in the Offices by an easie Tax upon the Lawyers themselves, (without any Diminution of her Majesty's Revenue) and which I verily believe the Lawyers will all agree to.

It would be too tedious to name all the Officers of the several Courts that I would propose to be bought in, and therefore I shall only name some of the biggest of them. In the Court of Chancery there is the Six Clerks, those most insignificant Officers, that do just nothing for 1000*l.* per *Annum* a-piece; the Main of their Business is to attend the Court of Chancery at *Westminster*, in Term-time only, where they do nothing but now and then read some Pleadings, &c. and some of them do it so feebly, that my School-master has whipt Boys even when they have read better than some of them do; and tho' most of the Chancery Business be done elsewhere than in *Westminster-hall*, yet they never attend the Court any where but there; (the Sworn Clerks and Solicitors read for them *gratis* every-where else) so its plain, they are not wanted on that Score; nor, indeed, are they of any manner of Use to the dispatching or doing of Justice; and since one diligent Person, by himself and Deputy, will easily do all their Business, and the suppressing them will save the Suitor Abundance of Money, which these Six Clerks do



nothing for, and take only because they have given 6 or 7000*l.* a-piece for their Places; therefore I would propose they should be bought in, and suppressed, and such Fees allow'd one Person for himself and Deputy, as will amount to 4 or 500 *l. per Annum*, there being eno' Men of Worth and Parts would be glad to undertake it at that Price, and would do the Business better than all of them now do.

The next are the Registers, Officers that indeed give great attendance, and ought to be Men of great Ingenuity; but the Fees they take are exorbitant, and daily grow upon us more and more, and they huff us into the Bargain: They, amongst other Things, impose dear and unnecessary Copies of Orders upon us, and take 3*s.* a Side for the Orders themselves, and make four of those Sides out of one Sheet of Paper, written in a very loose, wide Hand, and stuff with impertinent Recitals and Suggestions, making the Order six times longer than needs; so that an Order on Hearing, shall sometimes come to 10*l.* and by reason of its great Length they must have a long time to draw it up in, often 3 Months, unless you give Expedition-Money. Whereas if they were drawn up according to the excellent Forms used by the Clerks of the House of Peers, in drawing Orders upon Appeals, they would not come to the 20th part of what some of them do, and might be drawn up in a day or two, and if the Orders made by the Court of last Resort (which Orders above all others, ought to be plain and certain) can generally be comprized in the fourth part of half a Sheet of Paper: I do not see why the Chancery Orders may not be so too; and indeed that part of 'em which really is the Order, seldom is much longer; but 'tis the foolish, vain Recitals makes 'em so extravagant. And 'tis observable, that within these 40 years they have greatly incroach'd upon us, making their Orders now generally 3 times longer than they did then; and to what Excess they may come to in time, if not curb'd, no one can tell. I would therefore propose, that this Office be bought in, and the Registers put in *gratis*, and then their Orders may be shortened, and Fees reduced, without any Injury.

There are also the Masters in Chancery, Register of the Report-office, the Affidavit-office, the Subpoena-office, the two Examiners in particular, the Curfitors, the Usher, and many more, all which take extravagant Fees, infinitely more than all they can do can any ways be valued at. But they have bought their Places dear, and therefore must at least keep up (if not extend) their Fees, or they would be Losers by their Purchases; therefore if they were bought in, and their Places fill'd *gratis*, they might afford to take the fourth Part of what they now do, and have good Places too; but the Subpoena-office, the Curfitors-office, the Affidavit-office, and  
many



many others are utterly insignificant; Affidavits may be filed by the Register, and Subpoena's and Original Writs may be made out by the Attorneys and Solicitors, for the third Part of what they are now paid for them.

In the *Common-Pleas* there's the *Custos Brevium*, an useless Officer, seldom so much as seen, has a great Income for almost doing nothing. The three *Prothonotaries* next, who (as I have often heard) heretofore kept Clerks under them, to enter all Pleadings, and make the Writs belonging to their Office; and the *Prothonotaries* took 8*d.* a Sheet for the Pleadings, and the Fees for the Writs; but by Degrees the *Prothonotaries* have turn'd off all their Clerks, and shuff'd the Business upon the Attorneys themselves; who now enter all Pleadings, and make out all the Writs, and yet the *Prothonotary* (because he has given 7000*l.* for his Place) still takes the 8*d.* a Sheet and the Fees for Writs; and the Attorney, because he really does the Work, reckons 8*d.* a Sheet, and the Fees for the Writs too: So that by this Trick the Subject is notoriously defrauded, by paying twice for the same Thing, and the *Prothonotaries* are become almost of no Use, doing nothing in a Manner but setting their Hands, and taking the Money: And being one Person by himself and Deputy may do all their Business, as well as one does it in the Queens-bench, therefore I would propose they be bought in and suppress'd, and one Man put in *gratis*, at such Fees as will come to about 400*l.* *per Annum*, and 'twill save the Subject a deal of Money. There are also the *Phillazers*, and many other Officers, both in this Court, the Queens-Bench and Exchequer, who are Incumbrances and Stumbling-blocks in the Way to Justice, signifie nothing to the Administration or Dispatch of it, and who take great Fees for no other Merit but because they have bought their Places. And its these Offices make the Law so dear, and consequently dilatory: For how often are Causes delay'd for want of Money from the Client, to satisfy these idle rapacious Officers? And if any one were to examine Attorneys and Solicitors Bills, they would find three Parts in four paid to these Offices, and for Council-fees. And I cannot but here observe the Infelicity we Attorneys and Solicitors are under, of having our Bills fill'd and swell'd with the extravagant Fees and Expedition-money, *alias* Extortion, paid to these Officers. We bear all the Reproach, and suffer for their Sins, (they are out of our Clients Hearing and Reach) and it is we are exclaim'd against for the large Bills these Men occasion; our Clients think all is clear Gain to us, and are continually denouncing against us,

*Wo unto Ye, Lawyers.*

Therefore



The Way therefore to make Law cheap, is to suppress the useless Offices, and reform the Fees of the rest, and some Way to restrain the excessive Fees to Council; and this will advance Justice in some Degree, when it may be had with small Charge: But to do it effectually, it will be necessary to reform the many dilatory and senseless Customs, Rules, and Forms of the several Courts, and by that Means render Justice speedy, which will certainly be a great Blessing, as on the other hand Delay is a great Mischief. [Delaying Justice, is denying Justice, says my Lord Coke.] Now it would be very tedious (if I was able, as I am not, being but a young Practicer) to instance all, or even the greatest Part of the unjustifiable Causes of Delay in legal Proceedings: Therefore I will only name some few, and begin with the *Court of Chancery*, which for the Charge and Delay of it is become formidable to all Mankind.

I. The great Number of Procefs before you can come to a Sequestration, and the ridiculous Niceties in suing out and returning them, which frequently is, adjudg'd irregular, and the Plaintiff pays Cost for it, and is forc'd to begin again.

II. That there can be no Decree against a Defendant that has not appear'd, tho' you have run out all Procefs of Contempt against him.

III. The tedious Way of compelling a dilatory Defendant to appear, and put in a full Answer, and the unreasonable Length of the Returns of the Commissions to take Answers.

IV. The great and unnecessary Charges and Delays of Petitioning, or moving for *Subpœna's* returnable *immediate*, Orders *Nisi*, and Multitudes of other Things of Course, for which there's not the least Reason can be given, but that they bring Grift to Somebody's Mill.

V. The great Delay in granting Orders for long Time to Answer, &c. frequently made, without assigning any Reason at all, when the true Reasons of the Order are, that the Council or Solicitor is idle, and there's a Fee to Somebody.

VI. The Unreasonableness of fobbing the Plaintiff off with 40 s. Cost for an insufficient Answer, when he for most Part is delay'd a Term, and necessarily spends 4 l. or more; and the great Delay by filing Exceptions to Reports, and the small Costs allow'd if they are adjudg'd frivolous.

VII. The endless Inconveniencies in granting Injunctions upon such slight Grounds as they usually are.

VIII. The foolish Ceremony of exhibiting Bills of Revivor upon the Death of a Party, which frequently happens where there are many Parties, and is a great Delay.



IX. The multiplying Interlocutory Orders to that Degree, that there is often more Money spent in them before the Hearing, than all the rest of the Charge of the Suit amounts to.

X. The unjust Preference and Post-poning of Causes, which tho' not practiced by this Glorious Lord-keeper, it will be good to guard against his Successors, and to oblige them to hear all Causes in Course.

XI. The Delay by Rehearing Causes, Pleas, Demurrers, and Exceptions, which would not so frequently be, if the Party desiring the same was to pay full Costs (as indeed he ought) if the Order appeal'd from was affirm'd, and those Rehearings were always to be set the first in the Paper.

XII. Above all, there's the great Charge and Delay before the Masters; the very worst Part of the Business of that Court, and the Multitude of slight References that are made to them.

XIII. The ordering Money into a Master's Hand, and he to put it out on Security, to be approv'd of by himself, by which Means he becomes Judge how long he thinks fit to keep the Money, (whether dead in his Hands or no let any one guess) and by this Means Orphans Money frequently lies dead (to them) a long time.

XIV. The long Time before you can dismiss a Bill for Want of Prosecution.

XV. That Commissioners to examine Witnesses and their Clerks are not upon Oath, which lets them at Liberty to discover Evidence, and introduces Perjury, new Commissions, &c.

XVI. The tedious and chargeable Way of enforcing Obedience to Orders and Decrees.

These, with many more I could name, may easily be redrest, and put into a speedier and better Method, so that all Causes might be begun and ended in a Year, or less, except where it appear'd Witnesses were beyond Sea, or could not otherwise be had; and certainly he that has a Year's time to deliberate on a Cause in *Chancery*, cannot say he is surpriz'd, or wants Time to prepare for his Defence.

As to Law Proceedings, I think Arrests and Outlawries to obtain Appearances, are very chargeable Inconveniencies: In the first Place, you must employ that vile Blood-sucker a Bailiff, who always robs the Person he arrests, and evil treats him into the Bargain, and is a Means of inflaming the Reckoning considerably, there seldom being an Arrest, be the Debt never so small, but the Charges of it one Way or other comes to 15 s. at least, and by Outlawry is very tedious and chargeable, thro' the Formality of many Process sued out and return'd in an absurd Manner; and since in an Ejectment,



etment, which recovers Possession, (the most sacred Thing in the Law) there's no Arrest, no Process, no Imparlance, but one may (without any manner of previous Notice) before the Effoin-day of an issuable Term, deliver a Declaration to the Tenant in Possession, and for not appearing have Judgment by Default the following Term, or if the Defendant does appear, the Cause must be try'd the next Assizes: I see no manner of Reason why; there should be so much more to do, and Delay by Arrests, Imparlanes, &c. in meer personal Demands, but that Proceedings ought to be as speedy for the Recovery of them as Possession; and that upon leaving a Summons at the Defendant's House, or Place of Abode, and afterwards a Declaration, the Plaintiff may have the same Benefit as in the Ejectment; some Debts are no other Ways recoverable but by seizing the Person, therefore I should think it reasonable the Plaintiff might be at Liberty to take that Course, or by Summons, as he shall think fit.

The Delay of bringing Writs of Error is unsufferable, and would be prevented, if the Party bringing the same was to give good Bail, and to pay full Costs if the Judgment was affirm'd, or he non-suited, or his Writ of Error abated, and then also to pay Interests for the Money and Costs recover'd in the first Judgement, from the Day of signing thereof, for it cannot be thought unreasonable, that a Debt ascertained by Judgement should carry Interest against a Defendant wilfully delaying the Payment of it. There are abundance more nonsensical Rules, Forms, and Practices, in the Proceedings both at Law and in Equity, which are Causes of Great Charge and Delay, and without any manner of Sense or Reason, and would be too tedious to insert here; and these few Instances are enough to shew something of the Grievance. Another Thing seems to me unreasonable, why the Plaintiff, or the Defendant, should not, when he prevails, have full Costs, both at Law and in Equity, unless thro' a Confidence of prevailing in the Cause, it appears he has been extravagant in his Disbursements, and if so, then the Master to moderate them.

I have hitherto been for lessening the Suitor's Charge, but in one Instance I think it would be reasonable to increase it, and that is, in the Fees to the Jury; for I am of the same thought in respect of them as of the Judges, (*viz.*) that their Pay is too small. Who can imagine that Men of any Worth will attend a Jury-man's Duty for 12*d.* a Trial, nay for 8*d.* in some Countries? A Jury is the great Bulwark of the Liberty, and Property of the *English*, and deserves to be well paid; and if there were better Juries, and better Pay, it would be a Great Security to the Subject: For where there's a mean Jury, that is a common Jury, (for they throughout *England*



are mean Men) return'd in a Cause, that Cause is in Effect try'd without a Jury, for the Judge does what he pleases with them; they pin their Faith upon his Sleeve, and being very ignorant themselves, are glad to go by his Opinion and Direction: Therefore I would have Gentlemen return'd upon all Juries, and that they should have at least 2 s. and 6 d. a-piece for all Causes they try, and not above Two or Three Juries return'd for each County.

One Mischief more that wants Redress, is the excessive Numbers of Attorneys and Solicitors: *The more Hounds, the more Hares*, says the old Proverb: When Business is scarce, (as it must needs fall thin amongst such great Numbers of them) then they turn Barretors, and do a rooo knavish Things for Bread, and become common Nufances to that Part of the Country they live in, and generally deserve Hanging more than Highway-men, as has often been declar'd by the late Lord Chief Justice *Hales*, and others: That to convict one Barretor was more Service to the Public, than to hang an hundred Fellons. Now I humbly conceive 'twould be inconvenient, in respect of Families and Marriages already had, to weed out the bad ones at present, and stop their practicing; it would be best to let Death do that ungrateful Work, and in seven Years Time (I'll warrant) 'twill thin those now in being: But I should think doing something to prevent the Mischief growing again would do well, and that will best be done by having Regard of the Number and Quality of Clarks put to Attorneys and Solicitors, and the Time they are bound for: Many Attorneys and Solicitors have four Clarks at a Time, and not really Business for two; and they take 'em but for four or five Years at most, (as if the difficult Art of an Attorney was to be learnt in less Time than a common Trade) so that these Youngsters, when they come out of their Time, are like young Partridges, running before they are well hatcht, even with the Shells on their Ar---, (as the Country Men say) and just begin to learn, when they begin to be Masters.

Now, to prevent the Growth of 'em, I humbly conceive 'twou'd be convenient to restrain Attorneys and Solicitors from having any more than two Clarks at the same Time, and those bound for seven Years a-piece, and one to have serv'd half his Time before a new one is taken. Attorneys and Solicitors ought to be Men of great Integrity and good Ingenuity, for the Success of a Cause frequently depends upon their discreet Management, and the Trust is so great the Client must necessarily repose in him, that they have it in their Power to ruine any Cause by their Negligence, Ignorance, or Treachery: Therefore, in Order that the Practice of the Law may be in good Hands, and only Persons of good Families, and good Education, Learning and Substance admitted to it, (which in a great Measure would set them



them above mean Tricks and petty Foggeries.) I should think it would do well if none were to be put Clarks but Gentlemens Sons, or of higher Quality, and those to be good Scholars, and approv'd of by the Justices of the Peace, at their public Sessions, by Certificate, or by the Judges of Assize for the County; and that they, before they signifie their Approbation of them, do see that the Parents or Friends of the young Clark, do secure and settle at least 30*l.* *per Annum*, or a suitable Summ of Money, to come to him at the Expiration of his Clarkship, that he may then have a Substante, and not be tempted thro' Necessity to do mean Things; whereas now every little pitiful Tradesman, that can but just rake up Money eno' to put his Son out Clark, is for making him a Lawyer, and consequently (as he thinks) a Gentleman; and such a poor Creature, when his Clarkship's out, (having neither Money nor Friends, but what are poor as himself) must for Bread, some way or other, force a Trade, turns Barretor, oppresses the Country, and scandalizes the Profession. And I have always observ'd, that the scandalous Practicers were for the most Part come of some abject paltry Race.

I sincerely protest I have no By-ends in this Affair, of promoting the Interest of Attorneys and Sollicitors; nor have I communicated this Matter to any Attorney or Sollicitor whatsoever; nor can any one imagine how the Alteration I propose would make better for 'em, but worse; for thereby Causes would be shortned, and consequently their Gains too. And I hope, (especially if this good Reformation is compassed at their Expence) it will be thought reasonable to advance their Fees, which in the Courts of Law are little better than Porters Wages; 3*s.* and 4*d.* an hundred Years ago, would have gon a great Way at Market, to what it will now; it was heretofore more than 20*s.* is now: This, in respect of Council Fees, has been consider'd; for they are got from 10*s.* frequently to 10*l.* nay, there are many of 'em Golden Councillors, that hardly in a Year ever have a Fee in any Thing but Gold, that would throw a 10*s.* Fee at a Man's Head, if he should offer it 'em: And if there is to be (as its necessary there should) Men of good Parts and Integrity, Attorneys and Sollicitors, they must be encouraged by suitable Fees, or its in vain to expect it.

It may be objected to me, That my Proposal would lessen the Queen's Duty on Parchment, &c. which I cannot think it will; but if it should, that might sure be afforded to be made good some other Way, for the Sake of such a Reformation.

It may also be objected, That the *English* are generally litigious, and if the Law is made cheap, it will encourage that Temper, whereas the Dearness of it keeps 'em quiet.



This is the only Objection I can think of that bears any tollerable Face, and sure this is a fallacious one; it is in effect to bar the Subject of Justice, because now and then a litigious Man might make ill Use of it: If this Objection had any Weight, Why has there never yet been a Tax upon Law-Suits, to oblige the Plaintiff to pay so much to the Government *pro Licentia litigandi*? Why has there never yet been distinct Prices set upon the Law, so much for a poor Man, and so much more for a rich one? For that Costs that would ruin a poor Man, may be a Trifle to a rich one; and I hope it will not be denied, but a rich Man may be litigious as well as a poor one. But I think, if Law Suits be shorter and cheaper, the litigious Man will not be so dreadful, because he will the sooner have shot his Bolt, and with less Charge to his Adversary. And further, There are already good Laws (which still, if defective, may be supplied) for restraining litigious Suits, and if the Cause of Action be just and real, tho' but small, I see no Reason why the Plaintiff should not have *festinum Remedium*, and for a small Charge; and if he that withstands a just Demand is to pay full Costs, and he that prosecutes an unjust one is to do the like, I cannot see what Encouragement there will be for the litigious Persons.

But moreover, I utterly deny that the *English* are litigious; it is as much as to say, they are unmerciful, cruel, and revengeful; a Character no foreign Enemy, I dare say, will give of them: But yet, if they were so, I do take upon me to aver, upon my own Experience, and I believe all Practicers will concur with me in it, That the Dearness of the Law rather gratifies litigious Persons than restrains 'em: How pleas'd are they to put their Adversaries to great Charge? How often are People arrested for no other Reason, but to throw 'em in the Hands of those legal Thieves, *Bailiffs*, and put 'em to Charge? What's more common in our Clients Mouths, than to ask, What Cost will it put the other Side to, if we do so and so? And if they find it great, than cry they, *Oh! do it by all Means*; and if they find it but small, then, *Hang it, I will not show my Teeth for so small a Matter*. I have but a Word more to this specious Objection, (*viz.*) That the City Courts are cheap and Speedy, and yet are thought a great Benefit and Advantage; and that if now and then a Mischief should happen in particular Cases, by the Cheapness of the Law, yet a Mischief is rather to be endur'd than an Inconvenience.

Another Objection may possibly be made by the Officers, That they have *Free-holds in their Office*, and it would be Injustice to deprive them thereof. *Fuit hac Sapientia quondam Publica privatis secernere*, I think is Answer eno' to that Objection: And does not every Parliament, in making Rivers navigable,

&c.



*&c.* not only take away Free-holds, but even Inheritances too, upon reasonable Recompence, and I propose nothing without an Equivalent?

I have apply'd my Remedy to the Root of the Evil, that is, to give the Judges and Officers an Equivalent for what's taken from 'em; without which I should have a Hundred specious Objections made to me, all founded upon Self-interest; tho' I challenge the wisest Man amongst them, to say how, or which other Way, than what I propose, he will ever prevent or cure the exorbitant Charge and Delay of Suits, which is become terrible to all Men, and is daily the Cause of infinite Injustice, Misery and Oppression, and which has made Justice, like some fine costly Thing, only to be had by the Rich, and which the Poor must not pretend to.

There are Abundance of Things more than I have mention'd what to be redrest, in order to make Justice cheap and speedy, and which no body so well knows as an Attorney or Solicitor; and I hope, if the Parliament thinks fit to do any thing of this Nature, they will take farther Information about it from some honest Attorneys and Solicitors, and make a thorough Reformation in all the Courts in *Westminster-hall*. And if a Committee was appointed to inquire into the Truth of these, and was arm'd with Power to send for Persons, Papers, and Records, they would (upon examining some eminent Attorneys and Solicitors, and the Books and Entries, *&c.* of the several Courts) not only find all, but a great deal worse than I have said, to be true, and would so plainly discover where this insupportable Grievance lies, and the Way to redress it, that I make no doubt, but such a good Parliament as we now have, would make a good Law for that Purpose: And I hope my Brethren, the Attorneys and Solicitors, will (for their Country's Good and their own) speak out upon this Occasion, without Fear, Favour, or Affection, to these burthensome idle Officers.

I lastly come to propose a Fund for the Purposes above, which is this: I will suppose there are 1000 Serjeants at Law and Council, and 20000 Attorneys, Solicitors, Clerks in Court, and Scriveners in *England*, (I doubt not by what Observation and Enquiry I have made, but there are many more, but I will suppose only those Numbers.) Now I would have every Serjeant at Law pay 15*l.* every Council 10*l.* and every Attorney, Solicitor, Officer, Clerk in Court, and Scrivener, 5*l.* for a License to practice; this repeated two Years, would raise upwards of 220000*l.* And I say, let those that do not think fit to pay so small a Summ to reform the Law, be debarr'd from practicing it.

The Serjeants and Council have no Reason to quarrel at it, because it is to advance the Judges Salaries, which they in due Time may reap the Benefit



nefit of; and Attorneys and Sollicitors cannot, and I dare say, will not object to it, but rejoice at it; because it's to suppress many chargeable Offices, and reduce the Fees of the rest; and there's no Practicer but two ways loses more every Year by these Offices than this Tax comes to; (as thus) 1<sup>st</sup>, They are greatly in Disburse to these Offices for all Sorts of Clients, good and bad, and yearly lose more by bad Clients, for what they have laid down for 'em to these Offices, than this Tax comes to: And, 2<sup>dly</sup>, the very Interest of the Money they are constantly out of Pocket to these Offices, would yearly be more than this Tax; which Disburse and Loss would be sav'd to them for the future. This Tax will, I hope, buy in all the Offices: And for a perpetual Fund, to pay the additional Salaries to the Judges, I would have every one that is put Clerk to an Attorney, Sollicitor, Scrivener, Council, or Serjeant at Law, or Clerk in any Office of Law or Equity, pay 10*l.* at least; and every one that is admitted into any of the Inns at Court, to pay 15*l.* at least; and every Attorney, Sollicitor, Scrivener, or Clerk in any Office, for a License to practice when they are out of their Time, to pay 20*l.* every Council call'd to the Bar 30*l.* and every Serjeant call'd, to pay 50*l.* These initiating Taxes cannot be objected against, because People may chuse whether they will be of the Law or no, and consequently whether they will subject themselves to these Taxes or no. And moreover, the Difficulty and Chargeableness of putting out young Men to the Law, may be a farther Means of restraining the Number of its Practicers. I make no doubt but this last Tax will, *communibus Annis*, raise at least 30000*l.* per Annum, which will answer the additional Salaries I propose. And if by either of these Funds there's found a Surplus, I hope it will be employ'd in buying in those two scandalous Prisons the *Queens-bench* and *Fleet*, and setting 'em upon a new and better Foundation.

In my mean Opinion, some such Reformation of the Practice of the Law, as I have here propos'd, would remarkably advance Justice, and be one of the greatest Glories of the Reign of QUEEN ANNE, and of that Parliament that should make an Act for that Purpose: And for which I Doubt not but all Generations to the End of the World would call them Blessed.



FINIS.



